

1 Andrew A. Bao (SBN 247092)
aabao@wolfewyman.com
2 Meagan S. Tom (SBN 273489)
mstom@wolfewyman.com
3 WOLFE & WYMAN LLP
2175 N. California Blvd., Suite 645
4 Walnut Creek, California 94596-3502
Telephone: (925) 280-0004
5 Facsimile: (925) 280-0005

6 Attorneys for Defendant
CITIFINANCIAL SERVICES LLC
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 RONALD CHARLES DENISON JR.,

12 Plaintiff,

13 v.

14 CITIFINANCIAL SERVICING LLC; DOES 1-5,

15 Defendants.
16
17
18
19

Case No.: 3:16-cv-00432-WHA

Hon. William Alsup
Courtroom 8

**REPLY TO PLAINTIFF'S OPPOSITION
TO CITIFINANCIAL SERVICING LLC'S
MOTION TO STRIKE PLAINTIFF'S
COMPLAINT**

Date: April 21, 2016
Time: 8:00 a.m.
Courtroom: 8, 19th Floor

20 Defendant CITIFINANCIAL SERVICING LLC ("Citi") submits the following
21 memorandum of points and authorities in reply to the opposition filed by RONALD CHARLES
22 DENISON JR. ("Plaintiff") to Citi's motion to strike portions of the Complaint.

23 **1. Plaintiff's Opposition Fails Citi's Arguments Related to Punitive Damages.**

24 As noted in Citi's moving papers, Plaintiff's Complaint fails to allege sufficient facts to
25 support claims for punitive damages under the debt collection statutes, as they are not explicitly
26 authorized by said statute. (See Motion to Strike, 1:26-2:1) Plaintiff's Opposition wholly fails to
27 address this argument and as such, concedes its merits.

28 ///

Furthermore, while Plaintiff is correct that under 15 U.S.C. §§ 1681(n) and (o) provide for punitive damages, this argument fails to address the deficiencies with the claim for punitive damages. Plaintiff's Complaint lacks any factual allegations as to any "willful" violations; indeed, the Opposition conclusory statement that "Plaintiff has properly alleged willful where indicated" does not point to any facts within his Complaint to support his requests for punitive damages.

As such, Plaintiff's punitive damages requests should be stricken from the Complaint.

2. Plaintiff's Remains in Pro Se.

In support of his claims for attorney's fees, Plaintiff posits that he "may retain an attorney at some point, and requires attorney's fees upon successful adjudication." (Opposition, ¶ 6).

However, Plaintiff's arguments miss the mark. As noted, Plaintiff is in pro se. He admits that he is not represented by an attorney. Given that he continues to represent himself throughout this matter, case law dictates that he is not entitled to attorney fees.

As such, Plaintiff's requests for attorney fees remain improper.

3. Conclusion

Based on all of the foregoing reasons, as well as those set forth in Citi's moving memorandum, Citi respectfully requests this Court grant its' Motion to Strike Portions of the Complaint.

DATED: March 30, 2016

WOLFE & WYMAN LLP

By: /s/ Meagan S. Tom (SBN 273489)
ANDREW A. BAO
MEAGAN S. TOM
Attorneys for Defendant
CITIFINANCIAL SERVICES LLC

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA**)
3) **ss.**
4 **COUNTY OF ORANGE**)

4 I, Kathy Hagmaier, declare that I am employed in the County of Orange, State of California. I am over the
5 age of 18 and not a party to the within action. My business address is 2301 Dupont Drive, Suite 300, Irvine,
6 California 92612-7531.

6 On the date shown below, I served the document(s) described as **REPLY TO PLAINTIFF'S OPPOSITION**
7 **TO CITIFINANCIAL SERVICING LLC'S MOTION TO STRIKE PLAINTIFF'S COMPLAINT** on
8 all interested parties in said action by placing a true copy thereof in a sealed envelope addressed as stated on
9 the ATTACHED SERVICE LIST.

8 ☒ **BY MAIL:** as follows:

9 ☐ **STATE** - I am "readily familiar" with Wolfe & Wyman LLP's practice of collection and
10 processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
11 Service on that same day with postage thereon fully prepaid at Irvine, California, in the ordinary
12 course of business. I am aware that on motion of party served, service is presumed invalid if postal
13 cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in
14 affidavit.

12 ☒ **FEDERAL** - I deposited such envelope in the U.S. Mail at Irvine, California, with postage
13 thereon fully prepaid.

13 ☐ **BY PERSONAL SERVICE** as follows: I caused a copy of such document(s) to be delivered by hand
14 to the offices of the addressee between the hours of 9:00 A.M. and 5:00 P.M.

15 ☐ **BY OVERNIGHT COURIER SERVICE** as follows: I caused such envelope to be delivered by
16 overnight courier service to the offices of the addressee. The envelope was deposited in or with a
17 facility regularly maintained by the overnight courier service with delivery fees paid or provided for.

17 ☒ **BY ELECTRONIC MAIL** as follows: I hereby certify that I electronically transmitted the attached
18 document(s) to the U.S. District Court using the CM/ECF System for filing, service and transmittal of
19 Notice of Electronic Filing to the CM/ECF registrants for this case. Upon completion of the electronic
20 transmission of said document(s), a receipt is issued to the serving party acknowledging receipt by
21 ECF's system, which will be maintained with the original document(s) in our office.

20 ☐ **BY FACSIMILE** as follows: I caused such documents to be transmitted to the telephone number of
21 the addressee listed on the attached service list, by use of facsimile machine telephone number. The
22 facsimile machine used complied with California Rules of Court, Rule 2004 and no error was reported
23 by the machine. Pursuant to California Rules of Court, Rule 2006(d), a transmission record of the
24 transmission was printed.

23 ☐ **STATE** I declare under penalty of perjury under the laws of the State of California that the
24 above is true and correct.

24 ☒ **FEDERAL** I declare that I am employed in the offices of a member of the State Bar of this Court
25 at whose direction the service was made.

26 Executed on March 30, 2016, at Irvine, California.

27 
Kathy Hagmaier

SERVICE LIST
U.S. District Court, Northern District – Case No. 3:16-cv-00432-WHA
Ronald Charles Denison Jr. v. Citifinancial Servicing LLC, et al.
W&W File No. 1133-1553
[Revised: 2/23/2016]

Ronald Charles Denison Jr.
117 Firethorn Drive
Rohnert Park, CA 94928-1333

PLAINTIFF IN PRO PER

Chass14@icloud.com

Tel:

Fax: